

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ALEX CRUZ,

Plaintiff,

- against -

CBS BROADCASTING INC.

Defendant.

Docket No. 2:20-cv-1885

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Alex Cruz (“Cruz” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant CBS Broadcasting Inc. (“CBS Broadcasting” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of terrorist Sayfullo Saipov being arrested by police officers in New York, owned and registered by Cruz. Accordingly, Cruz seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York and is registered with the New York State Department of Corporations.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Cruz resides at 425 W. 205 Street, Apt 2A, New York, New York 10034.

6. Upon information and belief, CBS Broadcasting is business corporation duly with a place of business at 270 South Service Road, Melville, NY 11747. Upon information and belief, CBS Broadcasting is registered with the New York State Department of Corporations to do business in New York. At all times material, hereto, CBS Broadcasting has owned and operated a website at the URL: www.NewYork.CBSLocal.com (the “Website”) and has owned a television station WCBS-TV (the “TV Station”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Cruz photographed terrorist Sayfullo Saipov being arrested by police officers in New York (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Cruz is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-074-488.

B. Defendant’s Infringing Activities

10. Defendant ran an article on the Website entitled ‘*This Was An Act of Terror*’: *8 Dead, More Than A Dozen Injured When Truck Strikes Pedestrian In Lower Manhattan*. The article featured the Photograph. See: <https://newyork.cbslocal.com/2017/10/31/multiple-injuries->

[reported-in-incident-in-tribeca/](#). Defendant also ran the Photograph on the TV Station.

Screenshots of the Photograph on the Website and TV Station are attached hereto as Exhibit B.

11. Defendant did not license the Photograph from Plaintiff for its article or TV Station, nor did Defendant have Plaintiff's permission or consent to publish the Photograph on its Website or TV Station.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Defendant infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website or TV Station. Defendant are not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
April 23, 2020

LIEBOWITZ LAW FIRM, PLLC

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